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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,662	03/25/2004	Mary Ellen Siksa	END920030154US1	7813
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Law Office of Jim Boice 3839 Bee Cave Road Suite 201 West Lake Hills, TX 78746			EXAMINER SHRESTHA, BIJENDRA K	
			ART UNIT 3691	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/809,662	Applicant(s) SIKSA, MARY ELLEN	
	Examiner BIJENDRA K. SHRESTHA	Art Unit 3691	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,6-8,10-14,16,20-25,28 and 30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,6-8,10-14,16,20-25,28 and 30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>03/25/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1-4, 6-8, 10-14, 16, 21-25, 28 and 30 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Regarding claims 1 as best understood, it appears that the claimed method steps could simply be performed by mental process alone and are not statutory.

Based on Supreme Court precedent, a proper process must be tied to another statutory class or transform underlying subject matter to a different state or thing (*Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780,787-88 (1876)). Since neither of these requirements is met by the claim, the method is not considered a patent eligible process under 35 U.S.C. 101. To qualify as a statutory process, the claim should positively recite the other statutory class to which it is tied, for example by identifying the apparatus that accomplished the method steps or positively reciting the subject matter that is being transformed, for example by identifying the material that is being changed to a different state. The dependent claims do not correct the deficiency of claim 1 and therefore, the dependent claims are rejected on the same basis as claim 1.

As to claim 11 recites in the preamble “a processor system configured and controlled for reconciling.....”, the body of the claim does not contain any limitations

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indicating the structure of the processor system. Furthermore the preamble ends in the phrase “the process comprising the steps of”. It is unclear if Applicant is claiming a process or a system. For purposes of applying prior art, the Examiner will assume the claim is directed to a system. A system or an apparatus claim should always claim the structure or the hardware that performs the function. Applicant’s claimed limitations consist of steps of collecting...; reconciling...; and aggregating do not describe the structure of the device. The dependent claims do not correct the deficiencies of claim 11 and are rejected on the same basis.

As to claims 21-25, 28 and 30, the claim is directed to signal bearing medium.

However, signal bearing medium includes both statutory forms (i.e. computer readable medium) and non-statutory forms (i.e. data bearing signals). Since the specification does not limit the claim to statutory forms only, the claim can be read to incorporate nonstatutory forms of data bearing signals. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 11-14, 16 and 20 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In particular, claim 11 recites in the preamble “a processor system configured and controlled for reconciling.....”, the body of the claim does not contain any limitations indicating the structure of the processor system. Furthermore the preamble ends in the phrase “the process comprising the steps of”. It is unclear if Applicant is claiming a process or a system. For purposes of applying prior art, the Examiner will assume the claim is directed to a system. A system or an apparatus claim should always claim the structure or the hardware that performs the function. Applicant’s claimed limitations consist of steps of collecting...; reconciling...; and aggregating do not describe the structure of the device.

Claims 11-14, 16 and 20 are also not sufficiently precise due to the combining of two separate statutory classes (system and process) of invention in a single claim. The independent claim 1 recites as a processor system in the preamble but the body of the claim provides process comprising steps of “collecting...; reconciling...; and aggregating”.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claims 1-4, 6-8, 10-14, 16, 20-25, 28 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson et al., U.S. Pub No. 2007/0010914 (reference A in attached PTO-892) in view of Metzger U.S. Pub No. 2004/0186760 (reference B in attached PTO-892) further in view of Tandon et al., U.S. Pub No. 2005/0177470 (reference C in attached PTO-892)

7. As per claim 1,11 and 21, Johnson et al. teach a computer system and method of reconciling records of resource consumption at a plurality of resource consumption sites for incorporation into aggregate business records of resource consumption at a target site comprising the steps of:

a. collecting and recording resource consumption at resource consumption sites, (see Fig. 1, step 12).

Johnson et al. do not teach b) reconciling records of resource consumption between the resource consumption sites and the target site; i) retrieving the records from the resource consumption feeder and interim control points, ii) comparing at least one of: (a) resource consumption totals in the records from the resource consumption feeders with resource consumption totals in the aggregated records at the target site, and (b) a first total number of resource consumption records forwarded from the resource consumption feeders with a second total number of resource consumption records aggregated at the target site; and (c) aggregating the records of resource consumption into aggregate business records of the resource consumption at the target site.

Metzger teaches b) reconciling records of flowing resource consumption between the resource consumption sites and the target site (see Fig.1 and 2; paragraph [0023]; where target site is Facilitator Back-office Subsystem (208));

i) retrieving the records from the resource consumption feeder and interim control points (see Fig. 2, paragraph [0031]; where catering inventory is unloaded from Portable Terminal Device).

ii) comparing at least one of:

(a) resource consumption totals in the records from the resource consumption feeders with resource consumption totals in the aggregated records at the target site (see paragraph [0023] ; where web portal and portable device promote reconciliation and accountability of catering and other flight inventory), and

(b) a first total number of resource consumption records forwarded from the resource consumption feeders with a second total number of resource consumption records aggregated at the target site(see paragraph [0023] ; where web portal and portable device promote reconciliation and accountability of catering and other flight inventory); and

c) aggregating the records of resource consumption into aggregate business records of the resource consumption at the target site (see Fig. 1, Settlement (130); paragraph [0027]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to adding features of Metzger et al. described above in Johnson et al. because Metzger teaches including above features would enable to

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perform, record and reconcile transaction in connection with services performed at remote location (Metzer, paragraph [0010])

Johnson et al. do not teach iii) issuing a notification, if an error is discovered; and iv) continuing comparing records until all records are reconciled if no errors are detected.

Tandon et al. teach issuing a notification, if an error is discovered; and continuing comparing records until all records are reconciled if no errors are detected (see Fig. 3; paragraph [0037]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add issuing a notification, if an error is discovered; and continuing comparing records until all records are reconciled if no errors are detected of Johnson et al. because Tandon et al. teach including above features would enable to identify any error immediately (Tandon et al., paragraph [0037], first sentence).

8. As per claims 2, 12 and 22, Johnson et al. in view of Metzger further in view of Tandon teach the computer system and method wherein

the aggregate business records of the resource consumption at the target site comprise billing records (see Fig. 6).

9. As per claims 3-4, 13-14 and 23-24, Johnson et al. in view of Metzger further in view of Tandon teach the computer system and method comprising:

aggregating the records of resource consumption into aggregate business records of the resource consumption at the target site and thereafter reconciling the aggregated records at the target site (see Fig. 6; paragraph[0033]; where utility bill of

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resource consumption is aggregated into the database¹¹¹ for each utility provider and the system 100 provides payment for each utility provider accordingly).

10. As per claims 6, 16 and 25, Johnson et al. in view of Metzger further in view of Tandon teach computer system and method as described in claim 1 above.

Johnson et al. do not teach a) logging a reconciliation session start time of a reconciliation session, b) retrieving a last reconciliation session start time; c) issuing a notification of a logging session status, and d) ending the reconciliation session if an error is discovered; and e) if no errors are detected, continuing comparing records until all records are reconciled, issuing a report, and logging session status.

Tandon et al. teach a) logging a reconciliation session start time of a reconciliation session, b) retrieving a last reconciliation session start time (Tandon et al, Fig. 1, Login (202) and Schedule (204); paragraph [0033] and [0034]); and c) issuing a notification of a logging session status, and d) ending the reconciliation session if an error is discovered; and e) if no errors are detected, continuing comparing records until all records are reconciled, issuing a report, and logging session status (see Fig. 3, step 310; paragraph [0037] and [0044]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add a) logging a reconciliation session start time of a reconciliation session, b) retrieving a last reconciliation session start time; c) issuing a notification of a logging session status, and d) ending the reconciliation session if an error is discovered; and e) if no errors are detected, continuing comparing records until all records are reconciled, issuing a report, and logging session status of Johnson et al.

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because Tandon et al. teach including above features would enable validation of authorized user login and password data to allow access to stored financial data (Tandon et al., paragraph [0033]), schedule reconciliation sessions with remote terminals (paragraph [0034]), and rapid identification and reporting of any imbalance or un-reconciled data that may expose business to undue financial loss (paragraph [0018], last sentence).

11. As per claims 7, Johnson et al. in view of Metzger further in view of Tandon teach the computer system and method wherein

wherein the multiple types of electricity generation companies: include a coal fired company, a gas fired company, a hydro, electric company, and a wind turbine company (see paragraph [0018]).

12. As per claims 8 and 28, Johnson et al. in view of Metzger further in view of Tandon teach the computer system and method wherein

automatically reconciling resource consumption records at feeder sub systems, nodes, interim nodes and billing subsystems that are located between the resource consumption sites and the target site (see paragraphs [0005] and [0024]; where energy consumption at site are collected in real-time using TCP/IP network sensor devices and system also includes software for reconciling and paying utility bill).

13. As per claims 10, 20 and 30, Johnson et al. in view of Metzger further in view of Tandon teach the computer system and method wherein

the aggregate business records are chosen from the group consisting of transfer records and invoices and units of resource consumption (see Fig. 6; paragraph [0024])

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and [0033]; where aggregate business record include billing, energy consumption record).

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosures. Applicant is required under 37 CFR 1.111(c) to consider references fully when responding to this action.

The following are pertinent to current invention, though not relied upon:

Bracken et al. (U.S. Pub No. 2005/0044015) teach architecture for account reconciliation.

Crooks et al. (U.S. Patent No. 5,943,656) teach methods and systems for computerized bill consolidation.

Givoly et al. (U.S. Pub No. 2002/0120624) teach system, method and computer program product for contract-based aggregation.

Hwang (U.S. Pub No. 2005/0187852) teach method and system for account reconciliation in wealth management system.

Johnson et al. (U.S. Patent No. 7,369,968) teach enterprise energy management system.

Provinse (U.S. Pub No. 2002/0026416) teaches system and method for account reconciliation.

Rahn et al. (U.S. pub No. 2004/0054685) teach pharmacy automated accounts receivable system and methods.

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Rugge (U.S. Patent No. 7,240,028) teaches automated financial register reconciliation in a combined user interface.

Sandel et al. (U.S. Patent No. 6,771,758) teach reconciling database information among service providers.

Schweitzer et al. (U.S. Patent No. 6,418,467) teach network accounting and billing system and method.

Shibasaki et al. (U.S. Pub No. 2003/0194070) teach method of billing charge for used functions of communication device.

Zhang et al. (U.S. Pub No. 2005/0021527) teach system for resource accounting for multiple entities in an arbitrary value chain.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bijendra K. Shrestha whose telephone number is (571) 270-1374. The examiner can normally be reached on 7:00AM-4:30PM (Monday-Friday); 2nd Friday OFF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BKS/3691

/Alexander Kalinowski/

Supervisory Patent Examiner, Art Unit 3691

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